IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY SEVENTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION No: 23989 of 2003

Between:

S.Mahboob Basha, S/o. Abdul Raheem,
R/o. Eedhiveedhi, Kottacheruvu Post,
Puttaparthy Mandal, Ananthapur District.

..... PETITIONER

AND

1 Andhra Pradesh State Road Transport Corporation, Represented by its Vice Chairman & Managing Director,
Musheerabad, Hyderabad.
2 The Executive Engineer (Civil), Andhra Pradesh State Road Transport Corporation, Cuddapah.
3 The Deputy Executive Engineer, Andhra Pradesh State Road Transport Corporation, Anantapur.
4 The Executive Director, Andhra Pradesh State Road Transport Corporation, Cuddapah.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order, direction or Writ particularly one in the nature of Writ of Mandamus or any other appropriate writ declaring the action of the respondents in disengaging the services of the petitioner with effect from 12-5-2002 is illegal, arbitrary and contrary to the provisions of Section 25(G) and 25 (H) of Industrial Disputes Act; and

consequently direct the respondents to reinstate the petitioner into service and regularize the service of the petitioner

Counsel for the Petitioner: MR.G.VIDYASAGAR

Counsel for the Respondents: MR.P.V.SWAMY

The Court made the following:

ORAL ORDER:-

This Writ Petition is filed to declare the action of the respondents in disengaging the services of the petitioner with effect from 12.05.2002 is illegal, arbitrary and contrary to the provisions of sections 25(G) and 25(H) of Industrial Disputes Act, and to reinstate the petitioner into service and regularize his service.

The brief facts of that are necessary for the disposal of the writ petition is stated as follows:

It is the case of the petitioner that he was appointed as Technical Maistry in the respondents Corporation on 20.07.1987 in the Civil Engineering Department, and worked continuously at various places for construction of bus stations. He stated that without preparing any seniority list, the respondents' corporation has disengaged the services of the employees at their whims and fancies. He further stated that having rendered the service of five years continuously, his services could have been regularized. Hence, this writ petition.

A detailed counter-affidavit has been filed by the respondents' corporation contending that the petitioner's name is not there in the records and there are no record to show that the respondents made payments to the petitioner in his name; that no appointment order was issued to the petitioner and the corporation is not aware that the petitioner has worked as a Technical Maistry since 1987 till 2002 at various places and whenever works were entrusted, the contract labour will be supplied with identity cards and that does not give any right to them and hence the respondents' corporation prays to dismiss the writ petition.

Learned counsel for the petitioner contended that the petitioner's name is shown as Casual labour as per the proceedings of the Deputy Executive Engineer, APSRTC, Annantapur, dated 27.08.1998, and the petitioner was also given identity card signed by the said authority.

The petitioner has not filed any document to show that he was recruited and selected by the Corporation in a regular selection process.

The points, whether the respondents' corporation violated the provisions of 25(G) and 25(H) of the Industrial Disputes Act, 1947, whether the petitioner was recruited by the respondents' corporation or not, whether the wages are being paid by the respondents' corporation or not, are required to be determined and decided by the labour Court in view of the fact that petitioner's name was not found in the available records of the corporation.

The learned counsel for the respondents' corporation contended that no amounts were paid directly to the petitioner by the Corporation and no appointment order has been issued to him. Therefore, in view of the facts that disputed questions of fact arise in this writ petition, the same cannot be decided and determined by this Court by exercising the power under Article 226 of the Constitution of India.

Accordingly, the Writ Petition is disposed of. No order as to costs.

However, it is made clear that the contentions raised by the petitioner are open so as to raise the same before the appropriate forum.

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27-06-2005

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To

1 The Vice Chairman & Managing Director, Andhra Pradesh State Road Transport Corporation,
Musheerabad, Hyderabad.
2 The Executive Engineer (Civil), Andhra Pradesh State Road Transport Corporation, Cuddapah.
3 The Deputy Executive Engineer, Andhra Pradesh State Road Transport Corporation, Anantapur.
4 The Executive Director, Andhra Pradesh State Road Transport Corporation, Cuddapah.

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